

**PROCEEDING BEFORE JANE L. CLINE,  
INSURANCE COMMISSIONER OF THE  
STATE OF WEST VIRGINIA**

**IN RE: MARKET CONDUCT EXAMINATION OF  
FARMERS MUTUAL INSURANCE COMPANY**

**ADMINISTRATIVE PROCEEDING 08-AP-041**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION**

NOW COMES Jane L. Cline, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for Farmers Mutual Insurance Company, hereinafter referred to as Farmers Mutual, for the period ending June 30, 2007 based upon the following findings, to wit:

**PARTIES**

1. Jane L. Cline is the Insurance Commissioner of the State of West Virginia (the "Insurance Commissioner") and is charged with the duty of administering and enforcing the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.

2. Farmers Mutual is a Farmers' Mutual Fire Insurance Company authorized by the Insurance Commissioner to transact business in the State of West Virginia as permitted and authorized under Article 22, Chapter 33 of the West Virginia Code.

**FINDINGS OF FACT**

1. A Market Conduct Examination of the methods of doing business of Farmers Mutual Insurance Company for three and one half year period ending

June 30, 2007, was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the Insurance Commissioner.

2. On March 18, 2008, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

3. On May 16, 2008, a true copy of the Report of Market Conduct Examination (attached hereto as Exhibit A) was sent to Farmers Mutual by certified mail, return receipt requested, and was received by Farmers Mutual on May 22, 2008.

4. On May 16, 2008, Farmers Mutual was notified that, pursuant to West Virginia Code Section 33-2-9(j)(2), it had thirty (30) working days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

5. On May 27, 2008 Farmers Mutual advised the West Virginia Offices of the Insurance Commissioner via telephone that it does not dispute any facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination.

6. The findings contained in the Report of Market Conduct Examination reveal violations of West Virginia Code of State Rules Section 114-14-6.17

7. The Insurance Commissioner has determined that the violations of the West Virginia Code and Rule sections referenced in paragraph 7 above were unintentional.

8. By entering into this Agreed Order, Farmers Mutual does not admit

to any factual or legal determinations made by the Commissioner; does not admit to any violation of Chapter 33 of the West Virginia Code and reserves all rights and defenses regarding liability or responsibility in any proceedings regarding Farmers Mutual Insurance Company other than proceedings, administrative or civil, to enforce this Order.

9. Farmers Mutual waives notice of administrative hearing, any and all rights to an administrative hearing and to judicial review of this matter.

10. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the subject matter of, and the parties to, this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code Section 33-2-9.

3. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

### **ORDER**

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and Farmers Mutual Insurance Company's Response, the Insurance Commissioner and Farmers Mutual Insurance Company have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination.

It is accordingly **AGREED** and **ORDERED** as follows:

That the Report of Market Conduct Examination of Farmers Mutual

Insurance Company is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner.

That, within thirty (30) days of the entry date of this Agreed Order, Farmers Mutual Insurance Company shall file with the Insurance Commissioner, in accordance with West Virginia Code Section 33-2-9(j) (4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION.

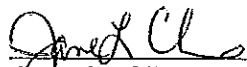
That FARMERS MUTUAL shall ensure compliance with the West Virginia Code and the Code of State Rules. FARMERS' MUTUAL shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination. FARMERS MUTUAL is hereby ordered to file a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail FARMERS Mutual's changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiner and address all violations specifically cited in the Report of Market Conduct Examination;

That the Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. FARMERS MUTUAL shall implement reasonable changes to the Corrective Action Plan if suggested by the Insurance Commissioner and the Insurance Commissioner will provide notice to FARMERS MUTUAL when the Corrective Action Plan has been approved; and

The Insurance Commissioner has determined that FARMERS MUTUAL shall pay an administrative penalty to the State of West Virginia in the amount of

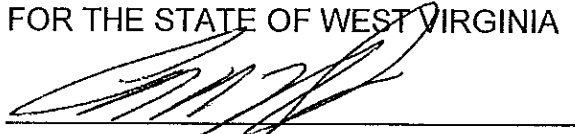
One Thousand Dollars (\$1,000.00) for non-compliance with the West Virginia Code as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy.

Dated this 9<sup>th</sup> day of July, 2008



Jarle L. Cline  
Insurance Commissioner

THE PARTIES SO AGREE:  
OFFICE OF THE INSURANCE COMMISSIONER  
FOR THE STATE OF WEST VIRGINIA



Andrew R. Pauley, Associate Counsel

7/9/08

Date

FARMERS MUTUAL INSURANCE COMPANY



Name

CEO

Title

7-7-08

Date

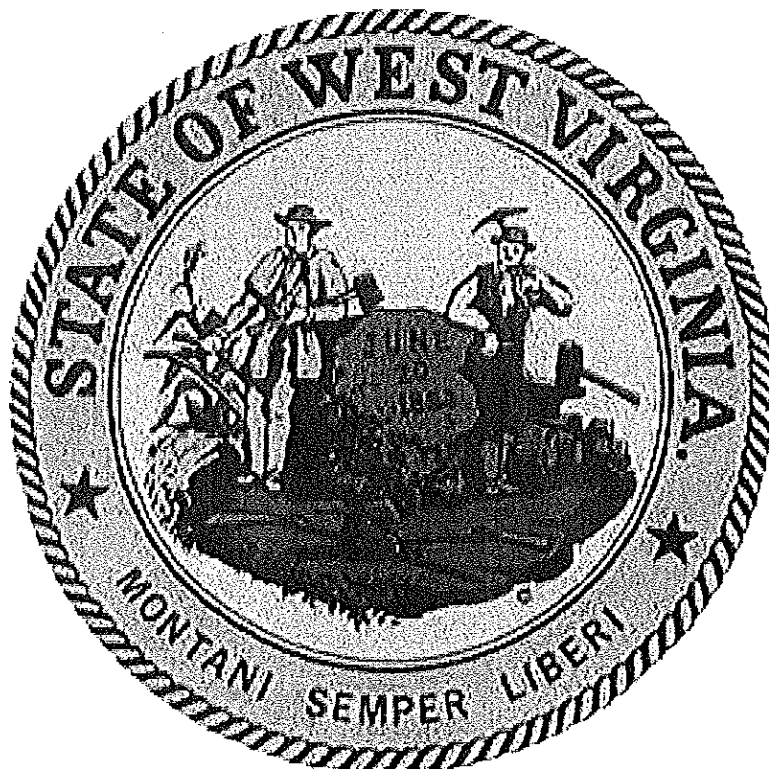
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DAVID CORSINI PRESIDENT FARMERS MUTUAL INSURANCE CO 20 MORAN CIRCLE FAIRMONT WV 26554	
PS Form 3800, June 2002 See Reverse for Instructions	

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you.		A. Signature <i>David Corsini</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
DAVID CORSINI PRESIDENT FARMERS MTUAL INSRUANCE CO 20 MORAN CIRCLE FAIRMONT WV 26554		B. Received by (Printed Name) C. Date of Delivery 8-6-07	Address different from item 1? <input type="checkbox"/> Yes If delivery address below: <input type="checkbox"/> No
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
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# Report of Market Conduct Examination

As of June 30, 2007



**Farmers Mutual Insurance Company**  
NAIC Company Code 40070  
20 Moran Circle  
Fairmont, West Virginia 26554

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March 18, 2008

The Honorable Jane Cline  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Cline:

Pursuant to your instructions and in accordance with W. Va. Code § 33-2-9, an examination has been made as of June 30, 2007 of the business affairs of

**Farmers Mutual Insurance Company**  
20 Moran Circle  
Fairmont, West Virginia 26554

hereinafter referred to as the "Company" or "Farmers Mutual". The following report of the findings of this examination is herewith respectfully submitted.

## **PREVIOUS EXAMINATION FINDINGS**

The West Virginia Insurance Commission conducted a comprehensive market conduct examination of the Company as of December 31, 2001 pursuant to the Insurance Commissioner's statutory obligation to examine each West Virginia domestic insurance company every five (5) years. Business areas reviewed and tested included Company Operations/Management, Complaint Handling, Marketing/Sales, Producer Licensing, Policyholder Service, Underwriting and Claims.

There were nineteen (19) recommendations from the following areas:

Operations and Management - four (4)  
Complaints Handling -- two (2)  
Underwriting and Rating -- seven (7)  
Claims - six (6)

## **EXECUTIVE SUMMARY**

Farmers Mutual is a property and casualty insurer primarily writing personal and commercial property insurance in the State of West Virginia.

This examination was commenced to determine compliance with findings identified in the prior examination of Farmers Mutual Insurance Company by the State of West Virginia. Business areas reviewed and tested include Company Operations / Management; Complaint Handling; Producer Licensing; Underwriting and Rating; and Claims. The examination fieldwork began September 24, 2007. Two weeks of on-site testing were performed. The Company maintains a paperless environment; therefore, the remainder of the examination was conducted via direct connection to the Company's server through the Company's virtual private network ("VPN"). Testing was concluded and the exit conference held on December 11, 2007. Workpapers were prepared using Teammate software.

The areas of deficiency noted in the recommendations of the prior examination were addressed in this examination. The Company has made substantial progress since the last examination to achieve compliance. Twenty (20) standards were tested during this examination. The Company passed nineteen (19) standards and failed one (1) standard.

The Company is directed to take corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations. In some instances, it is noted that the Company has already commenced corrective action.

## **SCOPE OF EXAMINATION**

The basic business areas that were examined under this examination were:

- Operations and Management
- Complaint Handling
- Producer Licensing
- Underwriting and Rating
- Claims

Each business area has standards that the examination measured. Some standards have specific statutory guidance, others have specific company guidelines, and yet others have contractual guidelines.

The focus of the examination is on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions throughout its operations, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas are tested to see if the Company is in compliance with West Virginia statute and rules.

This examination report is a report by test, rather than a report by exception; all standards tested are described and the results indicated.

## **HISTORY AND PROFILE**

Farmers Mutual was incorporated under the laws of West Virginia on July 26, 1905 and commenced operations as the Farmers Mutual Fire Association of West Virginia on January 26, 1906. The Company operated for many years as a farm mutual in Marion County and in the contiguous counties. Effective January 1, 1991, the current title was adopted. On January 1, 1992, Grange Mutual Fire Insurance Company, Philippi, West Virginia, was merged into Farmers Mutual. Effective January 1, 1994, Farmers Union Association and Fire Insurance Company merged into the Company. The Company operates under the provisions of Chapter 33, Article 22 of the West Virginia Code as a farmers' mutual fire insurance company.

All policies written by Farmers Mutual are non-assessable. The Company writes Fire and Lightning, Extended Coverage, Homeowners, Mobile-Homeowners, and attached Comprehensive General Liability by endorsement to these risks. Farmers Mutual also

writes Commercial Lines of insurance including retail establishments and churches under the Business Owners Program.

## METHODOLOGY

This examination is based on the standards and tests for a Market Conduct Examination of a Property and Casualty Insurer found in Chapters 16 and 17 of the NAIC Market Regulation Handbook and on applicable West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination or all of the types of review. The types of review used in this examination fall into three general categories. The types of review are: Generic, Sample, and Electronic.

A "Generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "Sample" review indicates that a standard was tested through direct review of a random sample of files selected using automated sampling software. The sampling techniques used are based on ninety-five percent (95%) confidence level with *Poisson* distribution---meaning sample sizes are generally the same without regard to population. For evaluation purposes, an error tolerance level of seven percent (7%) was used for claims and a ten percent (10%) tolerance was used for other types of review.

An "Electronic" review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically includes 100% of the records of a particular type.

Standards were measured using tests designed to adequately measure how the Company met certain benchmarks. The various tests utilized are set forth in the NAIC Market Regulation Handbook for a property and casualty insurer. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC Market Regulation Handbook are stated and contained within a bold border.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard; Examiner "Observations" are noted; "Results" are indicated; and in some cases, a "Recommendation" is made.

## A. COMPANY OPERATIONS/MANAGEMENT

The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to provide a view of what the Company is and how it operates and is not based on sampling techniques, but rather the Company's structure. This review is not intended to duplicate a financial examination review but is important in establishing an understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address the problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company to company, the absence of them or the ineffective application of them is often reflected in failure of the various Standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

### **Standard A 1**

*NAIC Market Regulation Handbook – Chapter XVI, § A Standard 1*

**The company has an up-to-date, valid internal or external audit program.**

*W.Va. Code § 33-33-3 & 33-33-4*

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. A company that has no internal audit function lacks the ready means to detect structural problems until after problems have occurred. A valid internal or external audit function and its use is a key indicator of competency of management, which the Commissioner may consider in the review of an insurer.

**Observations:** Farmers Mutual has developed a policy of conducting claims audits. In addition, their reinsurers perform a claims and underwriting audit on an annual basis, reviewing a sample of policies under each line of business. The Company also creates an internal financial operating statement each month, accompanied by a synopsis and report. An external audit is conducted by Parks, Foster & Morris, P.L.L.C. annually as well.

**Results:** Pass.

**Recommendations:** None.

**Standard A 3**

NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 3

**The company has an antifraud plan in place.**

W. Va. Code §33-41-1, et seq.

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. Written procedural manuals or guides and antifraud plans should provide sufficient detail to enable employees to perform their functions in accordance with the goals and direction of management. Appropriate antifraud activity is important for asset protection as well as policyholder protection and is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer. Further, the insurer has an affirmative responsibility to report fraudulent activities of which it becomes aware.

**Observations:** The Company has developed and implemented antifraud initiatives that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts. The review of the Company's Fraud Prevention Policy determined the Company has procedures in place to provide information regarding fraudulent insurance acts. The written antifraud plans are sufficient in detail and does enable the employees to perform their functions in accordance with the goals and direction of management. The plans are up-to-date, and in compliance with statutes, rules, and regulations. The plan includes the creation of the Farmers Mutual Insurance Company Integrity Program "with the aim of instilling a culture where integrity is stimulated and enhanced and fraud is deterred by the promotion of strong internal business and financial controls." The Company's antifraud plans have been submitted to the Commissioner.

**Results:** Pass.

**Recommendations:** None.

**Standard A 7**

NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 7

**Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.**

W. Va. Code § 33-11-4 &amp; W. Va. Code St. R. § 114-14

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

**Observations:** The review revealed a noncompliant provision in the Company's retention policy for maintaining claim files. This provision of the policy stated, "Claim file and accompanying records shall be maintained for the calendar year in which the

claim is closed plus four (4) years". The Company has revised its retention policy. The number of years' retention was incorrect and has been revised to five (5) years.

The examination determined the Company's retention policy was in violation of:

§33-11-4 (10). Unfair methods of competition and unfair or deceptive acts or practices defined.

(10) *Failure to maintain complaint-handling procedures.* - No insurer shall fail to maintain a complete record of all the complaints which it has received since the date of its last examination under section nine, article two of this chapter.

Under the Company's retention guidelines that provide for letters to be destroyed within one year, one section includes, "Letters or complaints requesting specific action that have no further value after changes have been made or the appropriate action has been taken, such as name or address change". The Company's guidelines failed to address any further retention handling for complaints received by the Company.

The company revised its document retention policy to address the handling of complaints and have added a section to require retention of a complete record of all the complaints that it has received since the date of its last examination defined under West Virginia State Code Chapter 33 section nine, article two.

**Results:** Pass with comment.

**Recommendations:** The Company has revised its record retention policies to come into compliance with the West Virginia statutes and code for the retention of information. It is recommended that the Company adhere to such policies.

**Standard A 8**

*NAIC Market Regulation Handbook -- Chapter XVI, § A, Standard 8*

**The company is licensed for the lines of business that are being written.**

*W. Va. Code § 33-22-8*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company operations are in conformance with the Company's certificate of authority.

**Observations:** W. Va. Code § 33-22-8(a), as amended, specifies any company subject to the provisions of this article may issue the following types of policies of insurance:

(1) Fire insurance, which is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause and against loss consequential upon such loss or damage, other than noncontractual liability for the loss or damage;

- (2) Loss or damage by insects or disease to farm crops or products and loss of rental value of land used in producing those crops or products;
- (3) Loss or damage to domestic farm animals by dogs or wild animals;
- (4) Loss or damage to property by burglary, theft, larceny, robbery, vandalism, malicious mischief or wrongful conversion, or any attempt at any of the foregoing;
- (5) Personal property floater insurance, which is insurance upon personal effects against loss or damage from any cause; and
- (6) Glass insurance, which is insurance against loss or damage to glass, including its ornamentation and fittings.

Issues of noncompliance reported in the last examination report have been cured as a result of subsequent changes to the law. Policy coverages appear to be within the Company's certificate of authority.

**Results:** Pass.

**Recommendations:** None.

## B. COMPLAINT HANDLING

Evaluations of the standards in this business area are based on Company responses to various information requests and complaint files at the Company. In this business area, "complaints" include "grievances." W. Va. Code § 33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its last examination." The statute also requires that "This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint," the definition of a complaint is: "...any written communication primarily expressing a grievance."

### Standard B 1

NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 1

All complaints are recorded in the required format on the company complaint register.

W. Va. Code § 33-11-4(10)

**Comments:** The review methodology for this standard is sample and generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Observations:** Complaints and grievances are received by Farmers Mutual at the Company's home office and the Insurance Commission. During this examination, it was



noted that, as required, the Company maintains a paper log of complaints it receives from the Insurance Commission. However, the Company failed to record or maintain a complaint register for all of the complaints it received directly ("direct Company complaints"). The review determined the Company failed to record one (1) direct Company complaint.

Further, complaints and grievances are to be recorded in a complaint register in a required format. The review of the Company's complaint register determined the complaint register failed to meet the minimum standards as required by W. Va. Code §33-11-4(10). The Company's complaint register failed to contain the line of business and the functional classification of the complaint (i.e. underwriting, marketing).

**Table B 1 - Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 Personal Lines	20	0	19	1	95

**Results:** Fail.

**Recommendations:** It is recommended that the Company record all complaints, direct and DOI received, in the required format in the Company's complaint register, pursuant to W. Va. Code §33-11-4(10). It is also recommended that the Company include the DOI complaint number on its complaint register for all DOI received complaints. It is further recommended that the Company date stamp all incoming complaints to assure all complaints are handled within fifteen (15) working days as required.

The Company has advised that a complaint register will be created in the format suggested. The complaint register will be kept on its server under shared folders and the complaint will be scanned into the computer on the date received using the complaint number and name.

**Standard B 2**

*NAIC Market Regulation Handbook -- Chapter XVI, § B, Standard 2*

**The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.**

*W. Va. Code §33-11-4(10) & W. Va. Code St. R. § 114-14-5.2*

**Comments:** The review methodology for this standard is generic. This standard is implied in the statutes. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company communicates complaint handling procedures to its members.

**Observations:** Farmers Mutual has a well-stated process and procedure for handling complaints. Communication of the process is made at the time that a complaint is made and not as a form of notice in the insurance contract. All correspondence appears to be clear, concise and appropriately recorded.

**Table B - 2 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 Personal Lines	20	0	20	0	100

**Results:** Pass.

**Recommendations:** None.

<b>Standard B 3</b>	<i>NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 3</i>
<b>The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.</b>	
<i>W. Va. Code § 33-11-4(10) &amp; W. Va. Code St. R. § 114-14-5.2</i>	

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement, however reasonable disposition is inferred by the fact that disposition information is required to be noted in the complaint log. This standard is concerned with whether the Company deals with the subject matter in a complaint/grievance.

**Observations:** All nineteen (19) complaints received through the Insurance Commission and reported in the Company's complaint log for the exam period were reviewed. The review tested the quality of the handling of the subject matter in the complaint and whether issues raised were fully addressed by responses. The review determined the Company fully addressed all issues raised in the nineteen (19) complaints. As noted earlier in this report, the Company failed to list one direct complaint. The quality of the complaint handling of the subject matter in the complaint and whether issues raised were fully addressed by responses could not be determined in the *complaint* file. However, the Company did properly address the issues in the *claim* file. The Company also failed to properly finalize the complaint, as the complaint file as well as the claim file failed to contain a Company response letter to the complaint.

**Table B - 3 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007	20	0	19	1	95

**Results:** Pass with comment.

**Recommendations:** It is recommended that the Company take steps to finalize and dispose of all complaints in accordance with applicable statutes, rules, and contract language and to note the finalization and disposition of all complaints in the complaint register.

**Standard B 4***NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 4***The timeframe within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.***W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5. 2*

**Comments:** The review methodology for this standard is sample. The standard does not have a direct statutory requirement, however timeliness is inferred. In the case of complaints concerning claims, direct time requirements are found in regulation. This standard is concerned with whether the Company responded to complaints timely. West Virginia's complaint handling section uses a fifteen (15) working day standard for responses to complaints.

**Observations:** All nineteen (19) complaints reported in the Company's and the Insurance Commission's complaint log for the exam period was reviewed. The review tested the initial response to written complaints. In all cases, the Company responded to the complainant within the required timeframe and to the Insurance Commissioner within fifteen (15) days. The only exception noted related to the one direct Company complaint noted earlier.

**Table B - 4 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 Personal Lines	20	0	19	1	.95

**Results:** Pass.

**Recommendations:** None.

**D. PRODUCER LICENSING**

The evaluation of standards is based on review of Insurance Commission and Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the examination is designed to test the Company's compliance with West Virginia producer licensing laws and rules.

**Standard D 1***NAIC Market Regulation Handbook – Chapter XVI, § D, Standard 1***Company records of licensed and appointed (if applicable) producers agree with department of insurance records.***W. Va. Code § 33-12-1 & W. Va. Code St. R. § 114-02*

**Comments:** This standard has a direct statutory requirement. It is not file specific. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed. Such producers are presumed to be qualified, having met the test for such license. W. Va. Code § 33-12-1(a) states: "No person shall in West Virginia act as or hold himself out to be an agent, broker or solicitor nor shall any person in any manner solicit, negotiate, make or procure insurance covering subjects of insurance

resident, located or to be performed in West Virginia, unless then licensed therefore pursuant to this article.” W. Va. Code § 33-12-1(c) states: “No insurer shall accept any business from any agent who does not then hold an appointment as agent for such insurer pursuant to this article.”

**Observations:** The Company’s list of terminated agents was reconciled with the Insurance Commissioner’s database. Six (6) terminated agents were not shown as terminated with the Insurance Commission. In addition, the Company’s information regarding three (3) of the agents was incorrect. The Company corrected the erroneous information.

**Table D 1 Agents Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007	294	0	288	6	98

**Results:** Pass.

**Recommendations:** None.

<b>Standard D 2</b>	<i>NAIC Market Regulation Handbook – Chapter XVI, § D, Standard 2</i>
<b>The producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.</b>	
	<i>W. Va. Code § 33-12-18</i>

**Comments:** This standard has a direct statutory requirement. As applied in this section, it is not file specific. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed for business solicited in West Virginia.

**Observations:** The Company’s procedure for appointing producers was reviewed. W.Va. Code §33-12-18 (b) requires the Company to file the agent appointment notices with the Insurance Commission. The review determined that although the Company compiles with this requirement, this step was not listed as a procedure in the Company’s licensing & appointment procedures. The Company revised its procedures to come into compliance with the requirements.

**Result:** Pass.

**Recommendations:** None.

## **F. UNDERWRITING AND RATING**

The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, presentations made to the examiner, and file sampling. The underwriting and rating practices portion of the examination is designed to provide a view of how the Company treats the public and

whether that treatment is in compliance with applicable statutes, rules and regulations. It is typically determined by testing a random sampling of files and applying various tests to the sampled files. Testing is concerned with compliance issues.

<b>Standard F 4</b>	<i>NAIC Market Regulation Handbook - Chapter XVI, § F, Standard 4</i>
<b>The company's underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules and regulations and company guidelines in the selection of risks.</b>	
<i>W. Va. Code § 33-11-4(7)</i>	

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct insurance statutory requirement. It is necessary to provide insureds with appropriate protection from unfair discrimination. Inconsistent handling of rating or underwriting practices, including request for supplemental information, even if not intended, can result in unfair discrimination.

**Observations:** Samples of sixty (60) new business commercial and sixty (60) new business personal lines policy files were selected for review. Two commercial policies were duplicates and one personal lines policy was voided. Of the fifty-eight (58) commercial and fifty-nine (59) personal lines policies reviewed, it was determined that the Company's underwriting practices conform to state statutes, rules and regulations and regulated entity guidelines in the selection of risks as required by 33-11-4(7) and are not unfairly discriminatory.

**Table F 4- Underwriting and Rating Sample Results**

Type	Sampled	N/A	Rev. Ttl.	Pass	Fail	% Pass
2002-2007 Commercial Lines	60	2	58	58	0	100
2002-2007 Personal Lines	60	1	59	59	0	100
Totals	120	3	117	117	0	100

**Results:** Pass.

**Recommendations:** None.

<b>Standard F 10</b>	<i>NAIC Market Regulation Handbook - Chapter 17, § F, Standard 10</i>
<b>Credits and deviations are consistently applied on a non-discriminatory basis.</b>	
<i>W. Va. Code § 33-11-4(7)(c)</i>	

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct insurance statutory requirement. Insurers must apply their field schedules or rate credits and deviations on a non-discriminatory basis. Consistency is the key in avoiding the appearance or actuality of unfair discrimination.

**Observations:** Samples of sixty (60) new business commercial and sixty (60) new business personal lines policy files were selected for review. Two commercial policies were duplicates and one personal lines policy was voided. Of the fifty-eight (58) commercial and fifty-nine (59) personal lines policies reviewed, it was determined that

the Company is applying credits and deviations on a consistent and non-discriminatory basis. The Company also adequately documented the reasons for deviations from the rate manual in three commercial policies. As applicable, the consent to rate form was properly obtained.

**Table F 10 - Underwriting and Rating Sample Results**

Type	Sampled	N/A	Rev. Ttl.	Pass	Fail	% Pass
2002-2007 Commercial Lines	60	2	58	58	0	100
2002-2007 Personal Lines	60	1	59	59	0	100
Totals	120	3	117	117	0	100

**Results:** Pass.

**Recommendations:** None.

<b>Standard F 22</b>	<b>NAIC Market Regulation Handbook – Chapter 17, § F, Standard 22</b>
<b>The company does not engage in collusive or anti-competitive underwriting practices.</b>	

**Comments:** Review methodology for this standard is sample. This standard does not have a direct insurance statutory requirement. This standard is intended to assure that any practice suggesting anti-competitive behavior is not tolerated. This includes engaging in collusive underwriting practices that may inhibit competition, e.g., entering into an agreement with other companies to divide the market within West Virginia by territory.

**Prior Examination Follow-Up:** During the prior examination, it was noted in a review of the Company's entire paid commission population as well as a sample of one hundred (100) new business submissions that a wide variety of new business commission rates. The Company responded that it paid a five (5) percent increase in commissions on books of business previously insured by a competing company, and subsequently placed with Farmers Mutual. While there was no evidence of any inducement paid to the policyholders, this practice may be anti-competitive in nature. Furthermore, the review of commission files further indicated that the Company pays commissions to agencies, not the licensed resident agent as proscribed in W.Va. Code § 33-12-24(a), and without the benefit of assignment described in W.Va. Code § 33-12-24(b). It was recommended that the Company not increase commissions to facilitate targeted replacement of another company's business. It was further recommended that the Company conform its business practices to W. Va. Code § 33-12-24 by either paying commissions directly to producers or securing an appropriate assignment.

**Observation:** Samples of sixty (60) commercial and sixty (60) personal lines policies were selected for evidence of anti-competitive practices. No evidence of such practices was revealed.

**Table F 22 - Underwriting and Rating Sample Results**

Type	Sampled	N/A	Rev. Tfl.	Pass	Fail	%Pass
2002-2007 Commercial Lines	60	2	58	58	0	100
2002-2007 Personal Lines	60	1	59	59	0	100
Totals	120	3	117	117	0	100

**Results:** Pass.

**Recommendations:** None.

## G. CLAIMS PRACTICES

The evaluation of standards in this business area is based on Company responses to information items requested by the examiner, discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment is in compliance with applicable statutes, and rules.

### Standard G 1

*NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 1*

**The initial contact by the company with the claimant is within the required timeframe.**

*W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. § 114-14-5.1*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W. Va. Code § 33-11-4(9) (b) which prohibits “failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.” West Virginia requires responses to claim communications within fifteen (15) working days of receipt of the communication.

**Observations:** A sample of sixty (60) first-party and twenty-four (24) third-party claims was reviewed from the listing of claims incurred during the examination period to determine whether the Company is in compliance with the mandated timeframe. A time study was performed to determine the time it took the Company to acknowledge the claim. No exceptions were noted.

**Table G 1 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	84	0	100

**Results:** Pass.

**Recommendations:** None.

**Standard G 2**  
**Timely investigations are conducted.**

*NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 2*

*W. Va. Code § 33-11-4(9) (C) & W. Va. Code St. R. § 114-14-6.1*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. West Virginia requires claim investigation be initiated within fifteen (15) working days of receipt of notice of claim.

**Observation:** A sample of 60 first-party claims and twenty-four (24) third-party claims determined that all claim investigations commenced within the proper timeframe.

**Table G 2 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	84	0	100

**Results:** Pass.

**Recommendations:** None.

**Standard G 3**  
**Claims are resolved in a timely manner.**

*NAIC Market Regulation Handbook – Chapter 16, § G, Standard 3*

*W. Va. Code § 33-11-4(9)(L)&(M) & W. Va. Code St. R. § 114-14-6.2 & 6.9*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Failure to timely resolve claims can invite “bad faith” actions. In a company setting, failure to timely resolve claims can result in a migration of providers from the network with resultant disruption of service to members.

**Observations:** A sample of sixty (60) first-party claims and twenty-four (24) third-party claims determined that all claims were resolved within the proper timeframe. A time study was performed to determine the time it took the Company to resolve the claim. No exceptions were noted.

**Table G 3 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	84	0	100

**Results:** Pass.

**Recommendations:** None.



**Standard G 4****The company responds to claim correspondence in a timely manner.***NAIC Market Regulation Handbook – Chapter 16, § G, Standard 4**W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. § 114-14-5.3*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. West Virginia requires a response to claim communications within fifteen (15) working days of receipt of the communication.

**Observations:** A sample of sixty (60) first-party claims and twenty-four (24) third-party claims determined that all claims' correspondence met state requirements without exception. The Company's claim procedures manual, as well as other procedures, requires that claim correspondence be handled in a timely manner. The Company's claims handling procedures are in compliance with state requirements. No exceptions were noted.

**Table G 4 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	84	0	100

**Results:** Pass.

**Recommendations:** None.

**Standard G 5****Claim files are adequately documented.***NAIC Market Regulation Handbook – Chapter 16, § G, Standard 5**W. Va. Code St. R. § 114-14-3.1*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Without adequate documentation, the various timeframes required by statute and/or regulation cannot be demonstrated. West Virginia requires that an insurer's claim files contain all notes and work papers pertaining to the claim in such detail such that pertinent events and the dates of such events can be reconstructed.

**Observations:** A sample of sixty (60) first-party claims and twenty-four (24) third-party claims were reviewed. All of the third-party claim files contained adequate file documentation. However, one claim within the first-party sample did not contain sufficient information regarding the claim's payment resolution, nor did it make reference to a corresponding direct company complaint (discussed in the Complaints section of this report).

Additionally, as discussed elsewhere in this report, the Company's record retention policy was not in compliance with West Virginia requirements. The policy was revised to come into compliance during the examination.

**Table G 5 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	59	1	98
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	83	1	98

**Result:** Pass.

**Recommendations:** It is recommended that the Company ensure all activity in claims files be adequately documented.

<b>Standard G 6</b>	<i>NAIC Market Regulation Handbook – Chapter 16, § G, Standard 6</i>
<b>Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.</b>	
<i>W. Va. Code § 33-11-4(9)</i>	

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement.

**Observations:** A sample of sixty (60) first-party claims and twenty-four (24) third-party claims determined the claims handling process meets state-specific statutes and regulations as applied to total loss evaluations, sales tax payment, disposition of salvage, correct payees, improper release of claims, proper payment of non-disputed claims and proper referral of suspicious claims. The review determined the claims coverage was checked for proper application of deductible or appropriate exclusionary language. No exceptions were noted.

**Table G 6 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	24	0	24	0	100
Totals	84	0	84	0	100

**Result:** Pass.

**Recommendations:** None.

<b>Standard G 9</b>	<i>NAIC Market Regulation Handbook – Chapter 16, § G, Standard 9</i>
<b>Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.</b>	
<i>W. Va. Code § 33-11-4(9) (e) &amp; (n) &amp; W. Va. Code St. R. § 114-14-6.3, 6.4 &amp; 6.7</i>	

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement.

**Observations:** A review was made of sixty (60) first-party claims closed without payment and five (5) third-party claims closed without payment. The sample included thirty-one (31) claims that were withdrawn by the insured or failed to meet the deductible and were therefore not considered denied and were thus not applicable. Of the thirty-four (34) valid claims closed without payment, it was determined that seven (7) of the first-party claim denials failed to contain the required instructions for rebuttal. The review determined the Company had four (4) violations under the Emergency Rule (eff. 10-11-05) and three (3) violations under the New Rule (eff. 4-24-06).

No exceptions were noted with regard to the third-party claims.

The Company modified its procedures with regard to rebuttal instructions in June 2007 after an internal audit of denied and closed without payment claims indicated several instances of non-compliance.

**Table G 9 - Claims Sample Results**

Type	Sampled	N/A	Rev. Ttl.	Pass	Fail	% Pass
2002-2007 First-party	60	31	29	22	7	76
2002-2007 Third-party	5	0	5	5	0	100
Totals	65	31	34	27	7	79

**Result:** Pass with comment.

**Recommendations:** It is recommended that the Company handle denied and closed without payment claims in accordance with policy provisions and state law.

**Standard 12**

*NAIC Market Regulation Handbook – Chapter XVII, § G, Standard 12*

**Company uses the reservation of rights and excess of loss letters, when appropriate.**

*W. Va. Code § 33-11-4(9) (e) & W. Va. Code St. R. § 114-14-6.5*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. Concerns tested for this standard include:

- The Company has reason to question coverage and has the reservation of rights been sent.
- Has excess of loss letter been sent when it is apparent that loss will exceed policy limits.

**Observations:** A review was conducted to determine if Company guidelines exist for the use of the reservation of rights letter. The Company's procedure for the use of the reservation of rights letter is documented. The procedures direct the claims personnel to use the reservation of rights letter when there is doubt as to whether coverage is going to

be an issue. It is the Company's standard operating procedure to proceed with the non-waiver or reservation of rights letter in claims that might involve a potential coverage issue.

The Company's procedures for sending the notice of excess loss letter determined guidelines exist. The Company sends the excess of loss letter if, during the course of a claim, investigation information is developed that indicates the coverage limit for the policy in question may not be sufficient to indemnify an injured party for the damages sustained. The procedures require that the "Excess Letter" is immediately prepared and forwarded to the insured via certified mail. The purpose of the "Excess Letter" is to notify the insured that personal assets may be at risk if the claim cannot be resolved within the policy limits as well as their right to hire personal counsel at their expense to monitor the claim. No exceptions were noted

**Table G 12 - Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	% Pass
2002-2007 First-party	60	0	60	0	100
2002-2007 Third-party	5	0	5	0	100
Totals	65	0	65	0	100

**Results:** Pass.

**Recommendation:** None.

## **LIST OF RECOMMENDATIONS**

### **Recommendation A - 7**

The Company has revised its record retention policies to come into compliance with the West Virginia statutes and code for the retention of information. It is recommended that the Company adhere to such policies.

### **Recommendation B - 1**

It is recommended that the Company record all complaints, direct and DOI received, in the required format in the Company's complaint register, pursuant to W. Va. Code § 33-11-4(10). It is also recommended that the Company include the DOI complaint number on its complaint register for all DOI received complaints. It is further recommended that the Company date stamp all incoming complaints to assure all complaints are handled within 15 working days as required. The Company has advised that a complaint register will be created in the format suggested.

### **Recommendation B - 3**

It is recommended that the Company take steps to finalize and dispose of all complaints in accordance with applicable statutes, rules, and contract language and to note the finalization and disposition of all complaints in the complaint register. The Company has advised that a complaint register will be created in the format suggested.

### **Recommendation G - 5**

It is recommended that the Company ensure all activity in claims files be adequately documented.

### **Recommendation G - 9**

It is recommended that the Company handle denied and closed without payment claims in accordance with policy provisions and state law.

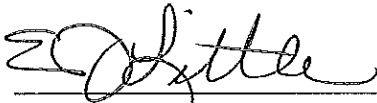
## EXAMINER'S AFFIDAVIT

### EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, E. Joy Little, being duly sworn, state as follows:

1. I have the authority to represent West Virginia in the examination of Farmers Mutual Insurance Company.
2. I have reviewed the examination work papers and examination report. The examination of Farmers Mutual Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



E. Joy Little, CPA, CFE  
Examiner-in-Charge

Subscribed and sworn before me by E. Joy Little on this 18<sup>th</sup> day of March 2008.

(SEAL)



LORI L. HILDEBRANDT  
My Commission Expires  
July 26, 2008  
Platte County



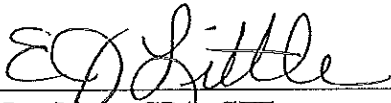
Notary Public

My commission expires 7-26-08

## EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Mark A. Hooker, AIE, CPCU and JoAnn Wheaton, CFE (Fraud) also participated in the examination.

A handwritten signature in cursive script, appearing to read "E. Joy Little", written over a horizontal line.

E. Joy Little, CPA, CFE  
Examiner-in-Charge